

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO.: 1:22-cv-21830-RKA

SIMON GERALD SULLENBERGER,

Plaintiff,

v.

CITY OF CORAL GABLES, a political
Subdivision of the State of Florida; JORGE
PUGA, individually and in his capacity as
a Police Officer for the City of Coral
Gables; NATALIE FLORES, individually
And in her capacity as a Police Officer for
the City of Coral Gables; JECABSEEL
NUNEZ, individually and in his capacity
as a Police Officer for the City of Coral
Gables,

Defendants.

**DEFENDANTS' MOTION FOR ENLARGEMENT OF TIME
TO RESPOND TO PLAINTIFF'S FIRST AMENDED COMPLAINT
AND LEAVE TO EXCEED PAGE LIMITATION**

Defendants, the CITY OF CORAL GABLES, JORGE PUGA, NATALIE FLORES, and JECABSEEL NUNEZ (collectively "Defendants"), respectfully move this Court pursuant to Rule 6(b) of the Federal Rules of Civil Procedure and its inherent authority, for the entry of an Order: (i) granting Defendants a brief seven (7) day enlargement of time (*i.e.*, up to and including **Monday, November 21, 2022**) within which to respond to Plaintiff's First Amended Complaint, and (ii) granting Defendants leave to exceed the twenty (20) page limit set forth in Local Rule 7.1(c)(2) by **five (5) pages**. In support thereof, Defendants state as follows:

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Procedural History

1. On June 15, 2022, Plaintiff, Simon Sullenberger ("Plaintiff"), filed his Complaint [DE 1] in the above-styled action.

2. On September 20, 2022, Plaintiff filed his First Amended Complaint [DE 12]. However, service had not yet been perfected on all four named Defendants in the action.

3. On September 21, 2022, this Court issued its Order in Cases with Multiple Defendants [DE 13], which states: "Defendants shall file their responses and motions jointly" and "[i]f the co-Defendants need more than twenty pages for their joint responses or motions, they shall file a *motion for leave to file excess pages*, which the Court will consider expeditiously."

4. In accordance with this Court's Order in cases with Multiple Defendants [DE 13], Defendants were also instructed not to file response or answer to the First Amended Complaint until all Defendants have been served. *See* Paperless Order dated September 21, 2022 [DE 14] ("**The Defendants shall respond to the Amended Complaint in compliance with our Practices within 21 days of the last Defendant being served.**"). *See also* Order to Show Cause dated September 26, 2022 [DE 16] (noting that "...no Defendant shall file a motion or answer until all Defendants have been served.").

5. On September 26, 2022, the Clerk of Court was directed to close this case for administrative purposes pending service on all Defendants. *Id.* [DE 16].

6. Service was perfected on all four Defendants on October 24, 2022 as follows:

- Officer Jorge Puga was served on August 23, 2022;
- City of Coral Gables was served on September 27, 2022;
- Officer Natalie Flores was served on October 24, 2022; and
- Officer Jecabseel Nunez was served on October 24, 2022.

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7. Thus, according to each of the above-referenced Orders [DE 13, 14 and 16], Defendants joint response or motion to the First Amended Complaint is presently due **on November 14, 2022**. [See also Docket Text to DE 22 and 23 (noting “response/answer due 11/14/2022” to the First Amended Complaint [DE 12])].

Motion for Extension and Leave to File Excess Pages

8. Local Rule 7.1(c)(2) generally limits the length of a memorandum to not more than twenty (20) pages, not including title pages preceding the first page of text, table of contents, table of citations, “request for hearing” sections, signature pages, certificates of good faith conferences, and certificates of service.

9. There are four (4) named Defendants in this case. While there is some overlap between the claims and subject matter asserted as to each Defendant, there are some arguments in response to Plaintiff’s First Amended Complaint that will need to be asserted which are specific to each Defendant. To accomplish this, the Defendants’ combined response to Plaintiff’s First Amended Complaint will need to exceed the twenty (20) page limit.

10. Additionally, at present, Defendants also require a brief extension of seven (7) days from the November 14, 2022 deadline to prepare and file an appropriate response or motion to Plaintiff’s First Amended Complaint on behalf of all four (4) named Defendants in this action.

11. These are generally matters within the Court’s discretion. District Courts routinely grant a parties’ request for excess pages and enlargements of time where the circumstances and issues before the court necessitate such a request and will permit the parties to adequately address the merits of the case. See e.g., *Levintan v. Morgan*; 3:12CV117/MCR/CJK, 2016 WL 1267574, at *14 (N.D. Fla. Feb. 25, 2016) (Order granting Plaintiff’s Motion for Enlargement of Time and Motion to Exceed Page Limitations); *Arrington v. Miami-Dade Cnty. Pub. Sch. Dist.*, 15-24114-

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CIV, 2018 WL 11328929, at *1 (S.D. Fla. Jan. 16, 2018) (granting Defendants' motion for enlargement of time to file a response to the Second Amended Complaint); *S.E.C. v. Huff*, No. 08-60315-CIV, 2010 WL 780184, at *2 (S.D. Fla. Mar. 3, 2010) (allowing oversized brief despite failure of counsel to move for enlargement of page limitation where issues and evidence before the Court were complex and voluminous).

12. Defendants submit this request will not cause any prejudice to either party, will permit each Defendant to appropriately address the merits of Plaintiff's First Amended Complaint, and will assist the Court because it will avoid the need to have each Defendant seek leave to file a separate response to Plaintiff's First Amended Complaint.

13. This Motion is not interposed for the purposes of delay and will serve the interests of justice and judicial economy.

WHEREFORE, Defendants, the CITY OF CORAL GABLES, JORGE PUGA, NATALIE FLORES, and JECABSEEL NUNEZ respectfully request the Court grant this motion: (i) allowing up to and including **November 21, 2022** for Defendants to file a joint response or motion directed to Plaintiff's First Amended Complaint; and (ii) allowing five (5) additional pages thus permitting the filing of a response or motion to Plaintiff's First Amended Complaint **up to twenty-five (25) pages** in length.

CERTIFICATE OF GOOD FAITH CONFERENCE

In accordance with Local Rule 7.1(a)(3), the undersigned conferred with *pro se* Plaintiff in a good faith attempt to resolve the issues raised in this motion. Plaintiff has asserted the following objection to the relief requested herein: *"This Plaintiff understands this court shall grant any Motion deemed appropriate in the pursuit of justice. In response to the Defenses Motion, Plaintiff submitted First Amended Complaint 9/19/2022 entered on FLSD Docket 09/20/2022. Plaintiff*

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expresses his concern that the Defense has had ample time to prepare their response and the Defenses request for a 7-day enlargement and seeking leave to exceed page limits would thwart the purpose of appropriate case management. Stalling the purpose of prompt and efficient prosecution causing greater burden on Plaintiff. This plaintiff is properly concerned with undue delay as well with the Defense using a technical defense of the litigation, raising concerns that factual evidence will be obscured if not totally overshadowed. This is not the purpose of the rules of civil procedure."

Respectfully submitted,

BOWMAN AND BROOKE LLP

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CERTIFICATE OF SERVICE

WE HEREBY CERTIFY on this **9th** day of November, 2022, the undersigned filed the foregoing with the Clerk of the Court for the United States District Court, Southern District of

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Florida, by using the CM/ECF system and that the foregoing document is being served this day on Plaintiff Simon Sullenberger, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive Notices of Electronic Filing.

By: /s/ Christine L. Welstead
CHRISTINE L. WELSTEAD